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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,330	02/18/2004	Hideki Hirayama	10449-079001 / PIS2003324	9450
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EXAMINER				
ALUNKAL, THOMAS D				
ART UNIT		PAPER NUMBER		
2627				
NOTIFICATION DATE		DELIVERY MODE		
05/16/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/781,330

Applicant(s)

HIRAYAMA ET AL.

Examiner

THOMAS D. ALUNKAL

Art Unit

2627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-10, 12 and 13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 4/21/08
13. ☐ Other: _____.

/Thang V. Tran/
Primary Examiner, Art Unit 2627

The proposed amendments will not be entered. More specifically, the amendments to independent claims 10 and 13 raise new issues that would require further consideration and/or search because the subject matter added to the claims further limits the claims. Namely, the addition of the limitation, "so that the phase comparator generates a phase difference signal in accordance with the difference between the phase of the wobble signal and the phase of the divisional signal..." to claims 10 and 13 requires further consideration under USC 103. More specifically, the added limitation requires that the phase difference signal is generated in accordance with the wobble signal and the divisional signal. The generation of the phase difference signal in accordance with the divisional signal was not previously presented in the claims and raises new issues that require further consideration and/or search. Thus, the proposed amendments will not be entered. Regarding applicant's arguments on beginning on Page 1 of Remarks, applicant argues that Minamino does not disclose the claimed features of claim 10. However, this argument is moot because Minamino was not relied upon to disclose the argued features. On page 2 of Remarks, applicant argues that Katoh does not disclose a frequency divider with a predetermined ratio...wherein the frequency divider changes the dividing ratio in accordance with the cycle of the wobble signal. The Examiner respectfully disagrees. Unlike frequency divider 19 in Figures 1, 3, and 5 of Katoh which has a fixed dividing ratio of $1/186$, frequency divider 36 of Figures 1, 3, and 5 is changeable. Column 11, line 58-Column 12, line 5 of Katoh discloses that the dividing ratio $1/n$ of the respective embodiments is changeable. Thus, the Examiner believes the frequency divider 36 of Katoh meets the argued limitations of claims 10 and 13. Thus, the previous grounds of rejection are maintained.